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15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE NORTHERN DISTRICT OF CALIFORNIA

17 **MIYOKO'S KITCHEN,**

18 Plaintiff,

19 v.

20 **KAREN ROSS, in her official capacity as
21 Secretary of the California Department of
22 Food and Agriculture, and STEPHEN
23 BEAM, in his official capacity as Branch
24 Chief of the Milk and Dairy Food Safety
25 Branch,**

26 Defendants.

27 3:20-cv-00893-RS

28 **NOTICE OF WITHDRAWAL OF
POSITION**

Date: July 16, 2020
Judge: Honorable Richard Seeborg

Trial Date: Not Set
Action Filed: February 6, 2020

1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS:

2 PLEASE TAKE NOTICE that the California Department of Food and Agriculture
3 withdraws its position that “[i]mages of animal agriculture from [Miyoko’s] website must . . . be
4 removed . . .”¹ The Department reviewed this position stated in the December 9 letter and
5 concluded that the position is inconsistent with the relevant statute, California Food and
6 Agricultural Code Section 38955. After review of the statute’s text, the Department concluded
7 that (1) this statute requires the promulgation of a regulation prior to enforcement, and the
8 Department has not promulgated such a regulation, and (2) the statute concerns the package itself,
9 not other promotional materials.

10 Defendants will address the effect of this withdrawal in their brief in opposition to
11 Miyoko’s Motion for Preliminary Injunction and their Answer.

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13 Dated: July 16, 2020

CALIFORNIA DEPARTMENT OF FOOD AND
AGRICULTURE, MILK AND DAIRY FOOD SAFETY
BRANCH

15

/s/ Stephen Beam
STEPHEN BEAM
Branch Chief

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Dated: July 16, 2020

XAVIER BECERRA
Attorney General of California
MYUNG J. PARK
Supervising Deputy Attorney General

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/s/ Michael S. Dorsi
MICHAEL S. DORSI
Deputy Attorney General
Attorneys for Defendants

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23 As the attorney e-filing this document, Michael S. Dorsi attests that Stephen Beam

24 concurred in the filing of this document. */s/ Michael S. Dorsi*

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¹ The relevant text of the December 9 letter, now withdrawn, states, “Images of animal agriculture from the website must also be removed such as the image below of the woman hugging a cow with other cows grazing in the background and the claim ‘100% dairy free and cruelty free’. Dairy images or associating the product with such activities cannot be used on the advertising of products which resemble milk products. FAC 38955.” ECF No. 1-1 at 1-2.